

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Brian Lake Balderson,	:	
Plaintiff	:	Civil Action 2:12-cv-00235
v.	:	Judge Smith
Bradley Eller, <i>et al.</i> ,	:	Magistrate Judge Abel
Defendants	:	

Report and Recommendation

This matter is before the Magistrate Judge on the State of Ohio and defendant Bradley Eller's November 29, 2012 motion to dismiss pursuant to Rule 41(b) of the Federal Rules of Civil Procedure for plaintiff's want of prosecution (doc. 39). The State of Ohio also maintains that Dr. Weidman and Dr. Williams should be dismissed from this action pursuant to Rule 4(m), Fed. R. Civil. P. for plaintiff's failure to obtain service on them.

Plaintiff Balderson has not responded to defendant's motion to dismiss, nor has he provided the Court with his current mailing address. Accordingly, the Magistrate Judge RECOMMENDS that the State of Ohio and defendant Bradley Eller's November 29, 2012 motion to dismiss (doc. 39) be GRANTED and that this case be DISMISSED for plaintiff's want of prosecution. Rule 41(b), Fed. R. Civ. P. *See, Link v. Wabash R. Co.*, 370 U.S. 626, 630-31 (1962). S.D. Ohio Civil Rule 55.1(c). The Magistrate Judge FURTHER RECOMMENDS that Dr. Weidman and Dr. Williams be DISMISSED without prejudice

from this action pursuant to Rule 4(m), Fed. R. Civil. P. for plaintiff's failure to obtain service on them.

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties a motion for reconsideration by the Court, specifically designating this Report and Recommendation, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1)(B); Rule 72(b), Fed. R. Civ. P.

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court. *Thomas v. Arn*, 474 U.S. 140, 150-152 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005); *Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995). Even when timely objections are filed, appellate review of issues not raised in those objections is waived. *Willis v. Sullivan*, 931 F.2d 390, 401 (6th Cir. 1991).

s/Mark R. Abel
United States Magistrate Judge